

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

v.

JASON SCALA

CASE NO. 3:07-CR-186

(JUDGE CAPUTO)

ORDER

Jason Scala pled guilty to possession with intent to distribute cocaine under 21 U.S.C. § 841(a)(1). He was sentenced to ninety-six months of imprisonment on April 28, 2008. On November 10, 2010 he moved to reduce his sentence pursuant to 18 U.S.C. § 3582. (Doc. 47.)

Presently before the Court is Scala's motion to stay a ruling on his § 3582 motion. (Doc. 51.) Scala argues that the Fair Sentencing Act of 2010, which raised the minimum amount of crack cocaine necessary to trigger certain minimum sentences, will become retroactive and be incorporated in the 2011 sentencing guidelines on November 1, 2011. Thus, he requests that the Court wait until this date to rule on his motion to reduce his sentence.

This argument is without merit. The Third Circuit Court of Appeals has held, in accord with every court of appeals to have addressed the issue, that the general Savings Statute, 1 U.S.C. § 109, bars retroactive application of the Fair Sentencing Act. *United States v. Williams*, ___ F.3d ___, No. 10-1812, 2010 WL 5078239, at *3–4 (3d Cir. Dec. 14, 2010).

On December 17, 2010, Representative Bobby Scott introduced a bill called the Fair Sentencing Clarification Act of 2010, H.R. 6548, which would make the Fair Sentencing Act's changes to crack cocaine sentencing laws apply retroactively. However, this bill is not yet law, and therefore the motion for a stay will be denied.

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

Scala's motion to stay the Court's ruling (Doc. 47) is **DENIED**.

Date: February 3, 2011

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge